

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT CHATTANOOGA

|                          |   |                         |
|--------------------------|---|-------------------------|
| UNITED STATES OF AMERICA | ) |                         |
|                          | ) | Case No. 1:11-cr-73-011 |
| v.                       | ) |                         |
|                          | ) | COLLIER / LEE           |
| KENNY SMITH              | ) |                         |

**ORDER**

On April 6, 2012, Magistrate Judge Susan K. Lee filed a report and recommendation recommending the Court: (1) grant Defendant's motion to withdraw his not guilty plea to Count One of the twenty-one-count Indictment; (2) accept Defendant's plea of guilty to Count One of the Indictment; (3) adjudicate Defendant guilty of the charges set forth in Count One of the Indictment; (4) defer a decision on whether to accept the plea agreement until sentencing; and (5) find Defendant shall remain in custody until sentencing in this matter (Court File No. 198). Neither party filed a timely objection to the report and recommendation. After reviewing the record, the Court agrees with the magistrate judge's report and recommendation. Accordingly, the Court **ACCEPTS** and **ADOPTS** the magistrate judge's report and recommendation (Court File No. 198) pursuant to 28 U.S.C. § 636(b)(1) and **ORDERS** as follows:

- (1) Defendant's motion to withdraw his not guilty plea to Count One of the Indictment is **GRANTED**;
- (2) Defendant's plea of guilty to Count One of the Indictment is **ACCEPTED**;
- (3) Defendant is hereby **ADJUDGED** guilty of the charges set forth in Count One of the Indictment;
- (4) A decision on whether to accept the plea agreement is **DEFERRED** until sentencing;  
and

(5) Defendant **SHALL REMAIN** in custody until sentencing in this matter which is scheduled to take place on **Thursday, August 23, 2012 at 9:00 a.m. [EASTERN]** before the Honorable Curtis L. Collier.

**SO ORDERED.**

**ENTER:**

/s/  
**CURTIS L. COLLIER**  
**CHIEF UNITED STATES DISTRICT JUDGE**